

WORKERS' COMPENSATION INDUSTRIAL COUNCIL

September 10, 2020

Minutes of the meeting of the Workers' Compensation Industrial Council held virtually via Zoom and telephonically on Thursday, September 10, 2020, at 1:00 p.m., Offices of the West Virginia Insurance Commissioner, 900 Pennsylvania Avenue, Room 912, Charleston, West Virginia.

Industrial Council Members Present:

Kent Hartsog, Chairman – via Zoom
Michael Keener, Vice-Chairman – via telephone
Kim Shin – via telephone
Bengy Swanson – via Zoom
Anna Dailey – via Zoom
James A. Dodrill, Insurance Commissioner/Nonvoting Member – via Zoom

1. Call to Order

Chairman Kent Hartsog called the meeting to order at 1:00 p.m.

2. Approval of Minutes

Chairman Hartsog asked for a motion to approve the March 12, 2020 minutes.

Anna Dailey made the motion to approve the March 12, 2020 minutes. The motion was seconded by Bengy Swanson and passed unanimously.

3. Office of Judges' Report – Bradley Crouser, Chief Administrative Law Judge

Chief Judge Bradley Crouser presented the Offices of Judges' Report. Chief Judge reported that the pandemic shutdown had a negative impact on the Office of Judges' work production due to various obstacles including the closure of provider offices, delay of medical examinations and challenges with scheduling, but that they are making progress and working diligently to catch up. Regular hearings are being held telephonically and Occupational Pneumoconiosis Board hearings will start being held via Zoom. He also stated that there are less work-related injuries due to remote working environments and unemployment, so the number of protests have declined dramatically. Following the report, Chief Judge Crouser took questions from the Council members. Council member Michael Keener suggested that Chief Judge Crouser report back at the next meeting to provide an update on the OOJ's progress.

4. General Public Comments

Chairman Hartsog asked for public comments. Attorney Bill Richardson, Parkersburg, WV, spoke and expressed his concerns regarding attorney fees awards and the unreasonable denial of workers' compensation claims. He expressed concern over the attorney fee cap. He also expressed disagreement with the Temporary Total Disability (TTD) benefit being limited to 104 weeks. Commissioner James Dodrill commented that these are policy decisions made by the Legislature and are codified in statute.

5. Old Business

Chairman Hartsog asked if anyone had any old business that needed to be discussed. No comments.

6. New Business

Commissioner, James Dodrill, presented the draft 2020 Workers' Compensation Safety Report. Anna Dailey made a motion to approve the draft of the Safety Report. It was seconded by Michael Keener and passed unanimously.

7. Next Meeting

The next meeting is to be determined at this time. The original meeting schedule has December 10, 2020 set as the next meeting. However, the Council intends to meet before then.

8. Executive Session

Chairman Kent Hartsog: The next order of business is the special Executive Session. The next item on the agenda is related to self-insured employers. These matters involve discussion as specific confidential information regarding a self-insured employer that would be exempted from disclosure under the West Virginia Freedom of Information Act pursuant to West Virginia Code §23-1-4(b). Therefore, it is appropriate that the discussion take place in Executive Session under the provisions of West Virginia Code §6-9A-4. If there is any action taken regarding these specific matters for an employer this will be done upon reconvening of the public session. Is there a motion to go into Executive Session?

Michael Keener made the motion to go into Executive Session. The motion was seconded by Bengy Swanson and passed unanimously.

Workers' Compensation Industrial Council
September 10, 2020
Page 3

The Industrial Council went into Executive Session to discuss self-insured matters. Angela Shepherd, Director, Workers' Compensation Self-Insurance, presented the self-insured matters.

The Industrial Council returned to the regular meeting following the Executive Session.

Chairman Hartsog called the Industrial Council meeting back to order for the regular public session.

Chairman Hartsog entertained a motion to approve the list of self-insured renewals that have been presented to the Council.

Anna Dailey advised that she will be recusing herself from the vote because of a conflict of interest, wherein the law firm, where she is employed, represents one of the companies under discussion during the Executive Session.

Michael Keener moved to accept the motion to approve the list.

The motion was seconded by Bengy Swanson and passed unanimously.

9. Adjourn

There being no further business, Chairman Hartsog asked for a motion to adjourn. Anna Dailey made the motion to adjourn the meeting. The motion was seconded by Bengy Swanson and passed unanimously.